

1 AN ACT concerning underground utilities facilities damage
2 prevention.

3 Be it enacted by the People of the State of Illinois,
4 represented in the General Assembly:

5 Section 5. The Illinois Underground Utility Facilities
6 Damage Prevention Act is amended by changing Sections 2, 2.2,
7 2.3, 4, 5, 6, 7, 8, 9, 10, 11, 13, and 14 and adding Sections
8 2.6 and 2.7 as follows:

9 (220 ILCS 50/2) (from Ch. 111 2/3, par. 1602)

10 Sec. 2. Definitions. As used in this Act, unless the
11 context clearly otherwise requires, the terms specified in
12 Sections 2.1 through 2.7 have the meanings ascribed to
13 them in those Sections.

14 (Source: P.A. 86-674.)

15 (220 ILCS 50/2.2) (from Ch. 111 2/3, par. 1602.2)

16 Sec. 2.2. Underground utility facilities "Underground
17 utility facilities" or "facilities" means and includes wires,
18 ducts, fiber optic cable, conduits, pipes, sewers, and cables
19 and their connected appurtenances installed beneath the
20 surface of the ground by a public utility (as is defined in
21 the Illinois Public Utilities Act, as amended), or by a
22 municipally owned or mutually owned utility providing a
23 similar utility service, except an electric cooperative as
24 defined in the Illinois Public Utilities Act, as amended, or
25 by a pipeline entity transporting gases, crude oil, petroleum
26 products, or other hydrocarbon materials within the State or
27 by a telecommunications carrier as defined in the Universal
28 Telephone Service Protection Law of 1985, or by a company
29 described in Section 1 of "An Act relating to the powers,
30 duties and property of telephone companies", approved May 16,

1 1903, as amended, or by a community antenna television
2 system, hereinafter referred to as "CATS", as defined in the
3 Illinois Municipal Code, as amended.

4 (Source: P.A. 86-674.)

5 (220 ILCS 50/2.3) (from Ch. 111 2/3, par. 1602.3)

6 Sec. 2.3. Excavation. "Excavation" means any operation
7 in which earth, rock, or other material in or on the ground
8 is moved, removed, or otherwise displaced by means of any
9 tools, power equipment or explosives, and includes, without
10 limitation, grading, trenching, digging, ditching, drilling,
11 augering, boring, tunneling, scraping, cable or pipe plowing,
12 and driving but does not include farm tillage operations or
13 railroad right-of-way maintenance or operations or coal
14 mining operations regulated under the Federal Surface Mining
15 Control and Reclamation Act of 1977 or any State law or rules
16 or regulations adopted under the federal statute, or land
17 surveying operations as defined in the Illinois Professional
18 Land Surveyor Act of 1989 when not using power equipment.

19 (Source: P.A. 86-674; 86-1195; 87-125.)

20 (220 ILCS 50/2.6 new)

21 Sec. 2.6. Emergency locate request. "Emergency locate
22 request" means a locate request for any condition
23 constituting a clear and present danger to life, health, or
24 property, or a utility service outage, and which requires
25 immediate repair or action.

26 (220 ILCS 50/2.7 new)

27 Sec. 2.7. Tolerance zone. "Tolerance zone" means the
28 approximate location of underground utility facilities or
29 CATS facilities defined as a strip of land at least 3 feet
30 wide, but not wider than the width of the underground
31 facility or CATS facility plus 1-1/2 feet on either side of

1 such facility. Excavation within the tolerance zone requires
2 extra care and precaution including, but not limited to, as
3 set forth in Section 4.

4 (220 ILCS 50/4) (from Ch. 111 2/3, par. 1604)

5 Sec. 4. Required activities. Every person who engages
6 in nonemergency excavation or demolition shall:

7 (a) take reasonable action to inform himself of the
8 location of any underground utility facilities or CATS
9 facilities in and near the area for which such operation is
10 to be conducted;

11 (b) plan the excavation or demolition to avoid or
12 minimize interference with underground utility facilities or
13 CATS facilities within the tolerance zone by utilizing such
14 precautions that include, but are not limited to, hand
15 excavation, vacuum excavation methods, and visually
16 inspecting the excavation while in progress until clear of
17 the existing marked facility in-and-near-the-construction
18 area;

19 (c) if practical, use white paint, flags, stakes, or
20 both, to outline the dig site;

21 (d) (e) provide notice not more than 14 days nor less
22 than 48 hours (exclusive of Saturdays, Sundays and holidays)
23 in advance of the start of the excavation or demolition to
24 the owners or operators of the underground utility facilities
25 or CATS facilities in and near the excavation or demolition
26 area through the State-Wide One-Call Notice System or, in the
27 case of nonemergency excavation or demolition within the
28 boundaries of a municipality of at least one million persons
29 which operates its own one-call notice system, through the
30 one-call notice system which operates in that municipality;

31 (e) (d) provide, during and following excavation or
32 demolition, such support for existing underground utility
33 facilities or CATS facilities in and near the excavation or

1 demolition area as may be reasonably necessary for the
2 protection of such facilities unless otherwise agreed to by
3 the owner or operator of the underground facility or CATS
4 facility; and

5 (f) ~~(e)~~ backfill all excavations in such manner and with
6 such materials as may be reasonably necessary for the
7 protection of existing underground utility facilities or CATS
8 facilities in and near the excavation or demolition area.

9 At a minimum, the notice required under clause (d) ~~(e)~~
10 shall provide:

11 (1) the person's name, address, and (i) phone
12 number at which a person message can be reached and ~~left~~
13 ~~or~~ (ii) fax number;

14 (2) the start date of the planned excavation or
15 demolition;

16 (3) the address at which the excavation or
17 demolition will take place; and

18 (4) the type and extent of the work involved; and-

19 (5) section/quarter sections when the above
20 information does not allow the State-Wide One-Call Notice
21 System to determine the appropriate geographic
22 section/quarter sections. This item (5) does not apply
23 to residential property owners.

24 (Source: P.A. 87-125; 88-578, effective date changed to
25 7-1-95 by P.A. 88-681.)

26 (220 ILCS 50/5) (from Ch. 111 2/3, par. 1605)

27 Sec. 5. Notice of preconstruction conference. When the
28 Illinois Department of Transportation notifies an owner or
29 operator of an underground utility facility or CATS facility
30 that the Department will conduct a preconstruction conference
31 concerning new construction, reconstruction, or maintenance
32 of State highways in and near the area in which such owner or
33 operator has placed underground utility facilities, such

1 notification shall, except as otherwise provided in this
 2 Section constitute compliance by the Department or its
 3 contractors with paragraphs (a), (b), and (d) ~~(e)~~ of Section
 4 4 of this Act. In instances when notification of a
 5 preconstruction conference is provided to the owner or
 6 operator of an underground utility facility or CATS facility
 7 but no specific date is established at the preconstruction
 8 conference for the new construction, reconstruction or
 9 maintenance of State highways in and near the area in which
 10 the owner or operator has placed underground utility
 11 facilities or CATS facilities, then the Department or its
 12 contractors shall later comply with paragraph (d) ~~(e)~~ of
 13 Section 4 of this Act.

14 (Source: P.A. 86-674.)

15 (220 ILCS 50/6) (from Ch. 111 2/3, par. 1606)

16 Sec. 6. Emergency excavation or demolition. (a) Every
 17 person who engages in emergency excavation or demolition
 18 outside of the boundaries of a municipality of at least one
 19 million persons which operates its own one-call notice system
 20 shall take all reasonable precautions to avoid or minimize
 21 interference between the emergency work and existing
 22 underground utility facilities or CATS facilities in and near
 23 the excavation or demolition area, through the State-Wide
 24 One-Call Notice System, and shall notify, as far in advance
 25 as possible, the owners or operators of such underground
 26 utility facilities or CATS facilities in and near the
 27 emergency excavation or demolition area, through the
 28 State-Wide One-Call Notice System. At a minimum, the notice
 29 required under this subsection (a) shall provide:

30 (1) the person's name, address, and (i) phone
 31 number at which a person can be reached and (ii) fax
 32 number;

33 (2) the start date of the planned emergency

1 excavation or demolition;

2 (3) the address at which the excavation or
3 demolition will take place; and

4 (4) the type and extent of the work involved.

5 A 2-hour wait time exists after an emergency locate
6 notification request is made through the State-Wide One-Call
7 Notice System. If the conditions at the site dictate an
8 earlier start than the 2-hour wait time, it is the
9 responsibility of the excavator to demonstrate that site
10 conditions warranted this earlier start time.

11 (b) Every person who engages in emergency excavation or
12 demolition within the boundaries of a municipality of at
13 least one million persons which operates its own one-call
14 notice system shall take all reasonable precautions to avoid
15 or minimize interference between the emergency work and
16 existing underground utility facilities or CATS facilities in
17 and near the excavation or demolition area, through the
18 municipality's one-call notice system, and shall notify, as
19 far in advance as possible, the owners and operators of
20 underground utility facilities or CATS facilities in and near
21 the emergency excavation or demolition area, through the
22 municipality's one-call notice system.

23 (c) The reinstallation of traffic control devices shall
24 be deemed an emergency for purposes of this Section.

25 (Source: P.A. 86-674; 87-125.)

26 (220 ILCS 50/7) (from Ch. 111 2/3, par. 1607)

27 Sec. 7. Damage or dislocation. In the event of any
28 damage to or dislocation of any underground utility
29 facilities or CATS facilities in connection with any
30 excavation or demolition, emergency or nonemergency, the
31 person responsible for the excavation or demolition
32 operations shall immediately notify the affected utility and
33 the State-Wide One-Call Notice System owner--of--such

1 facilities.

2 (Source: P.A. 86-674.)

3 (220 ILCS 50/8) (from Ch. 111 2/3, par. 1608)

4 Sec. 8. Liability or financial responsibility

5 (a) Nothing in this Act shall be deemed to affect or
6 determine the financial responsibility for any operation
7 under this Act or liability of any person for any damages
8 that occur unless specifically stated otherwise.

9 (b) No liability for purely economic damages or losses,
10 including but not limited to loss of profits, shall attach to
11 any person for acts or omissions in the performance or
12 nonperformance of the duties prescribed in this Act. The
13 furnishing of information in a required locate request, the
14 transmission of such information by the State-Wide One-Call
15 Notice System, and the locating and marking, or mislocating
16 or mismarking, of underground utility facilities or CATS
17 facilities by any person in response to a locate request
18 shall not give rise to any liability for purely economic
19 damages or losses, including but not limited to loss of
20 profits.

21 (c) Nothing in this Act shall be deemed to provide for
22 liability or financial responsibility of the Department of
23 Transportation, its officers and employees concerning any
24 underground utility facility or CATS facility located on
25 highway right-of-way by permit issued under the provisions of
26 Section 9-113 of the Illinois Highway Code. It is not the
27 intent of this Act to change any remedies in law regarding
28 the duty of providing lateral support.

29 (d) Neither the State-Wide One-Call Notice System nor
30 any of its officers, agents, or employees shall be liable for
31 damages for injuries or death to persons or damage to
32 property caused by acts or omissions in the receipt,
33 recording, or transmission of locate requests or other

1 information in the performance of its duties as the
2 State-Wide One-Call Notice System.

3 (e) In joining the State-Wide One-Call Notice System, a
4 municipality's liability, under any membership rules and
5 regulations, for the identification of (i) the entity that is
6 in charge of or managing the System or any officer, agent, or
7 employee of that entity or (ii) a member of the System or any
8 officer, agent, or employee of a member of the System shall
9 be limited to claims arising as a result of the acts or
10 omissions of the municipality or its officers, agents, or
11 employees or arising out of the operation of the operations
12 of the municipality's underground utility facilities.

13 (f) Nothing in this Section shall be construed to create
14 any additional liability for a municipality in relation to
15 any member of the system with which the municipality may have
16 entered into a franchise agreement. If a municipality's
17 liability for indemnification under a franchise agreement is
18 narrower than under this Section, the franchise agreement
19 controls.

20 (g) A person owning, operating, or locating underground
21 facilities or CATS facilities may voluntarily locate any
22 similar facility that is privately owned and attached to the
23 facility owner's or operator's system in the area of the
24 proposed excavation or demolition at the request of the owner
25 of the facility. If the locating is done at the request of
26 the owner of the facility without charge or fee and the
27 facility is mismarked and damaged, the person owning,
28 operating, or locating the underground utility facilities or
29 CATS facilities shall not be liable for any resulting injury,
30 death, or property damage.

31 (h) Any residential property owner who fails to comply
32 with any provision of this Act and damages underground
33 utility facilities or CATS facilities while engaging in
34 excavation or demolition on such residential property shall

1 not be subject to a penalty under this Act, but shall be
2 liable for the damage caused to the owner or operator of the
3 damaged underground utility facilities or CATS facilities.

4 (Source: P.A. 86-674; 87-125.)

5 (220 ILCS 50/9) (from Ch. 111 2/3, par. 1609)

6 Sec. 9. Negligence. When it is shown by competent
7 evidence in any action for physical damages to underground
8 utility facilities or CATS facilities that such damages
9 resulted from excavation or demolition and that the person
10 engaged in such excavation or demolition failed to comply
11 with the provisions of this Act, that person shall be deemed
12 prima facie guilty of negligence. When it is shown by
13 competent evidence in any action for physical damages to
14 persons, material or equipment brought by persons undertaking
15 excavation or demolition acting in compliance with the
16 provisions of this Act that such damages resulted from the
17 failure of owners and operators of underground facilities or
18 CATS facilities to comply with the provisions of this Act,
19 those owners and operators shall be deemed prima facie guilty
20 of negligence.

21 (Source: P.A. 86-674.)

22 (220 ILCS 50/10) (from Ch. 111 2/3, par. 1610)

23 Sec. 10. Record of notice; marking of facilities. Upon
24 notice by the person engaged in excavation or demolition, the
25 person owning or operating underground utility facilities or
26 CATS facilities in or near the excavation or demolition area
27 shall cause a written record to be made of the notice and
28 shall mark, within 48 hours (excluding Saturdays, Sundays and
29 holidays) of receipt of notice, the approximate locations of
30 such facilities so as to enable the person excavating or
31 demolishing to establish the location of the underground
32 utility facilities or CATS facilities.

1 All persons subject to the requirements of this Act shall
2 plan and conduct their work consistent with reasonable
3 business practices. Conditions may exist making it
4 unreasonable to request that locations be marked within 48
5 hours. It is unreasonable to request owners and operators of
6 underground utility facilities and CATS facilities to locate
7 all of their facilities in an affected area upon short notice
8 in advance of a large or extensive nonemergency project, or
9 to request extensive locates in excess of a reasonable
10 excavation or demolition work schedule, or to request locates
11 under conditions where a repeat request is likely to be made
12 because of the passage of time or adverse job conditions.
13 Owners and operators of underground utility facilities and
14 CATS facilities must reasonably anticipate seasonal
15 fluctuations in the number of locate requests and staff
16 accordingly. Marking--need--not--be--accomplished--more--than--48
17 hours--in--advance--of--the--time--excavation--or--demolition--of
18 daily--segments--of--the--excavation--or--demolition--are--scheduled
19 to--begin.

20 If a person owning or operating underground utility
21 facilities or CATS facilities receives a notice under this
22 Section but does not own or operate any underground utility
23 facilities or CATS facilities within the proposed excavation
24 or demolition area described in the notice, that person,
25 within 48 hours (excluding Saturdays, Sundays, and holidays)
26 after receipt of the notice, shall so notify the person
27 engaged in excavation or demolition who initiated the notice,
28 unless the person who initiated the notice expressly waives
29 the right to be notified that no facilities are located
30 within the excavation or demolition area. The notification
31 by the owner or operator of underground utility facilities or
32 CATS facilities to the person engaged in excavation or
33 demolition may be provided in any reasonable manner
34 including, but not limited to, notification in any one of the

1 following ways: by face-to-face communication; by phone or
2 phone message; by facsimile; by posting in the excavation or
3 demolition area; or by marking the excavation or demolition
4 area. The owner or operator of those facilities has
5 discharged the owner's or operator's obligation to provide
6 notice under this Section if the owner or operator attempts
7 to provide notice by telephone or by facsimile, if the person
8 has supplied a facsimile number, but is unable to do so
9 because the person engaged in the excavation or demolition
10 does not answer his or her telephone or does not have an
11 answering machine or answering service to receive the
12 telephone call or does not have a facsimile machine in
13 operation to receive the facsimile transmission. If the
14 owner or operator attempts to provide notice by telephone or
15 by facsimile but receives a busy signal, that attempt shall
16 not serve to discharge the owner or operator of the
17 obligation to provide notice under this Section.

18 A person engaged in excavation or demolition may
19 expressly waive the right to notification from the owner or
20 operator of underground utility facilities or CATS facilities
21 that the owner or operator has no facilities located in the
22 proposed excavation or demolition area. Waiver of notice is
23 only permissible in the case of regular or non-emergency
24 locate requests. The waiver must be made at the time of the
25 notice to the State-Wide One-Call Notice System. A waiver
26 made under this Section is not admissible as evidence in any
27 criminal or civil action that may arise out of, or is in any
28 way related to, the excavation or demolition that is the
29 subject of the waiver.

30 For the purposes of this Act, underground facility
31 operators may utilize a combination of flags, stakes, and
32 paint when possible on non-paved surfaces and when dig site
33 and seasonal conditions warrant the-"approximate-location"-of
34 underground--utility-facilities-or-CATS-facilities-is-defined

1 as-a-strip-of-land-at-least-3-feet-wide-but--not--wider--than
 2 the-width-of-the-underground-facility-or-CATS-facility-plus-1
 3 1/2-feet-on-either-side-of-such-facility. If the approximate
 4 location of an underground utility facility or CATS facility
 5 is marked with stakes or other physical means, the following
 6 color coding shall be employed:

7 Utility or Community Antenna	Identification Color
8 Television Systems and Type	
9 of Product	

- | | |
|---------------------------------------------------|----------------------|
| 10 Electric Power, Distribution and | |
| 11 Transmission..... | Safety Red |
| 12 Municipal Electric Systems..... | Safety Red |
| 13 Gas Distribution and Transmission..... | High Visibility |
| 14 | Safety Yellow |
| 15 Oil Distribution and Transmission..... | High Visibility |
| 16 | Safety Yellow |
| 17 Telephone and Telegraph Systems..... | Safety Alert Orange |
| 18 Community Antenna Television Systems.. | Safety Alert Orange |
| 19 Water Systems..... | Safety |
| 20 | Precaution Blue |
| 21 Sewer Systems..... | Safety Green |
| 22 <u>Non-potable Water and Slurry Lines.....</u> | <u>Safety Purple</u> |
| 23 <u>Temporary Survey.....</u> | <u>Safety Pink</u> |
| 24 <u>Proposed Excavation.....</u> | <u>Safety White</u> |

25 (Source: P.A. 86-674; 88-578 (effective date changed to
 26 7-1-95 by P.A. 88-681); 88-681, eff. 7-1-95.)

27 (220 ILCS 50/11) (from Ch. 111 2/3, par. 1611)

28 Sec. 11. Penalties; liability; fund.

29 (a) Every person who, while engaging in excavation or
 30 demolition, wilfully fails to comply with the Act by failing
 31 to provide the notice to the owners or operators of the
 32 underground facilities or CATS facility near the excavation
 33 or demolition area through the State-Wide One-Call Notice

1 System as required by Section 4 of this Act and ~~damages any~~
 2 ~~underground-utility-facilities-or-CATS-facilities,~~ shall be
 3 subject to a penalty fine of up to \$5,000 ~~no more than \$200~~
 4 for each separate offense and shall be liable for the damage
 5 caused to the owners or operators of the facility.

6 (b) Every person who, while engaging in excavation or
 7 demolition, and has provided the notice to the owners or
 8 operators of the underground utility facilities or CATS
 9 facilities in and near the excavation or demolition area
 10 through the State-Wide One-Call Notice System as required by
 11 Section 4 of this Act, but otherwise wilfully fails to comply
 12 with this Act and ~~damages any underground-utility--facilities~~
 13 ~~or--CATS-facilities,~~ shall be subject to a penalty fine of up
 14 to \$2,500 ~~no more than \$100~~ for each separate offense and
 15 shall be liable for the damage caused to the owners or
 16 operators of the facility.

17 (c) Every person who, while engaging in excavation or
 18 demolition, and has provided the notice to the owners or
 19 operators of the underground utility facilities or CATS
 20 facilities in and near the excavation or demolition area
 21 through the State-Wide One-Call Notice System as required by
 22 Section 4 of this Act, but otherwise, while acting
 23 reasonably, damages any underground utility facilities or
 24 CATS facilities, shall not be subject to a penalty, fine but
 25 shall be liable for the damage caused to the owners or
 26 operators of the facility provided the underground utility
 27 facility or CATS facility is properly marked as provided in
 28 Section 10 of this Act.

29 (d) Every person who, while engaging in excavation or
 30 demolition, provides notice to the owners or operators of the
 31 underground utility facilities or CATS facilities through the
 32 State-Wide One-Call Notice System as an emergency locate
 33 request and the locate request is not an emergency locate
 34 request as defined in Section 2.6 of this Act shall be

1 subject to a penalty up to \$2,500 for each separate offense.

2 (e) Owners and operators of underground utility
3 facilities or CATS ~~community--antenna--television--systems~~
4 facilities who wilfully fail to comply with this Act by a
5 failure to mark ~~er--to--properly--mark~~ the location of an
6 underground utility or CATS facility shall be subject to a
7 penalty fine of up to \$5,000 ~~no-more-than-\$200~~ for each
8 separate offense ~~each-violation~~ resulting from the failure to
9 mark ~~er-properly-mark~~ an underground utility facility or CATS
10 facility. ~~No-person-shall-be-subject-to--such--fine--if--the~~
11 ~~owner-or-operator-of-the-underground-utility-facilities-erred~~
12 ~~in--marking--or-failed-to-mark-such-facilities-as-provided-in~~
13 ~~Section-10-of--this--Act--and--no--willful--damage--has--been~~
14 ~~committed.~~

15 (f) As provided in Section 3 of this Act, all owners or
16 operators of underground utility facilities or CATS
17 facilities who fail to join the State-Wide One-Call Notice
18 System by January 1, 2003 shall be subject to a penalty of
19 \$100 per day for each separate offense. Every day an owner or
20 operator falls to join the State-Wide One-Call Notice System
21 is a separate offense. This subsection (f) does not apply to
22 utilities operating facilities or CATS facilities exclusively
23 within the boundaries of a municipality with a population of
24 at least 1,000,000 persons.

25 (g) No owner or operator of underground utility
26 facilities or community antenna television systems facilities
27 shall be subject to a penalty fine where a delay in marking
28 or a failure to mark or properly mark the location of an
29 underground utility or CATS facility is caused by conditions
30 beyond the reasonable control of such owner or operator.

31 (h) Any person who is not an agent, employee, or
32 authorized locating contractor of the owner or operator of
33 the underground utility facility or CATS facility who
34 removes, alters, or otherwise damages markings, flags, or

1 stakes used to mark the location of an underground utility or
2 CATS facility other than during the course of the excavation
3 for which the markings were made or before completion of the
4 project shall be subject to a penalty up to \$1,000 for each
5 separate offense.

6 (i) The excavator shall exercise due care at all times
7 to protect underground utility facilities and CATS
8 facilities. If, after proper notification through the
9 State-Wide One-Call Notice System and upon arrival at the
10 site of a proposed excavation, the excavator observes clear
11 evidence of the presence of an unmarked utility or CATS
12 facility in the area of the proposed excavation, the
13 excavator shall not begin excavating until 2 hours after an
14 additional call is made to the State-Wide One-Call Notice
15 System for the area. The operator of the utility or CATS
16 facility shall respond within 2 hours of the excavator's call
17 to the State-Wide One-Call Notice System.

18 (j) The Illinois Commerce Commission shall have the
19 power and jurisdiction to, and shall, enforce the provisions
20 of this Act. The Illinois Commerce Commission may impose
21 administrative penalties as provided in this Section. The
22 Illinois Commerce Commission may promulgate rules and develop
23 enforcement policies in order to implement compliance with
24 this Act. When a penalty is warranted, the following criteria
25 shall be used in determining the magnitude of the penalty:

- 26 (1) gravity of non compliance;
- 27 (2) culpability of offender;
- 28 (3) history of non compliance;
- 29 (4) ability to pay penalty;
- 30 (5) show of good faith of offender;
- 31 (6) ability to continue business; and
- 32 (7) other special circumstances.

33 ~~In-the-event-that-a-person-has-given-proper--notice,--the~~
34 ~~owner-or-operator-of-the-underground-utility-facility-or-CATS~~

1 facility--has-marked-the-approximate-location-and-that-person
2 is--unable--to--physically--locate--the--underground--utility
3 facility-or-CATS-facility, where-other--than--an--"open--cut"
4 method-of-locating-must-be-used, within-a-reasonable-time-due
5 to-conditions-beyond-his-control-and-that-person-has-notified
6 the--State-Wide--One-Call--notice--system--of--the--owner--or
7 operator-of-the-underground-utility-facility-or-CATS-facility
8 of--the--need--for--additional--and--more-precise-markings-of
9 approximate-locations-and--the--owner--or--operator--has--not
10 further--and-more-precisely-marked-or-located-the-underground
11 utility--facility--or--CATS--facility--within--48--hours---of
12 receiving---such---notice, then--the--person--excavating--or
13 demolishing, exercising-reasonable-care, shall-not-be--liable
14 for--damages--to--the--facilities.---Actions--to--recover-the
15 penalty-provided-for-in-this-Section-shall-be-brought-by--the
16 State's--Attorney-of-the-county-where-the-damage-occurred, at
17 the-request-of-the--owner--or--operator--of--the--underground
18 utility--facilities--or--CATS--facilities--damaged, or-at-the
19 request-of-any-person-when-the-owner--or--operator--fails--to
20 comply--with--this--Act, or--at--the-request-of-the-Illinois
21 Commerce-Commission-in-the-name-of-the-People-of-the-State-of
22 Illinois, in-the-circuit-court-for-that-county, or--for--the
23 county--in--which--the-person-complained-of-has-its-principal
24 place-of-business-or-resides.

25 (k) There is hereby created in the State treasury a
26 special fund to be known as the Illinois Underground Utility
27 Facilities Damage Prevention Fund. All penalties recovered
28 in any action under this Section shall be paid into the Fund
29 and shall be distributed annually as a grant to the
30 State-Wide One-Call Notice System to be used in safety and
31 informational programs to reduce the number of incidents of
32 damage to underground utility facilities and CATS facilities
33 in Illinois. The distribution shall be made during January
34 of each calendar year based on the balance in the Illinois

1 Underground Utility Facilities Damage Prevention Fund as of
2 December 31 of the previous calendar year. In all such
3 actions under this Section, the procedure and rules of
4 evidence shall conform with the Code of Civil Procedure, and
5 with rules of courts governing civil trials.

6 (l) The Illinois Commerce Commission shall establish an
7 Advisory Committee consisting of a representative from each
8 of the following: utility operator, JULIE, excavator,
9 municipality, and the general public. The Advisory Committee
10 shall serve as a peer review panel for any contested
11 penalties resulting from the enforcement of this Act.

12 The members of the Advisory Committee shall be immune,
13 individually and jointly, from civil liability for any act or
14 omission done or made in performance of their duties while
15 serving as members of such Advisory Committee, but only in
16 the absence of willful misconduct.

17 (m) Any final order or decision of the Advisory
18 Committee may be reviewed as provided in the Administrative
19 Review Law and the rules adopted pursuant thereto.

20 ~~Any--residential-property-owner-that-fails-to-comply-with~~
21 ~~any-provision-of-this-Act--and--damages--underground--utility~~
22 ~~facilities-or-CATS-facilities-while-engaging-in-excavation-or~~
23 ~~demolition--on--land--owned-by-the-residential-property-owner~~
24 ~~shall-not-be-subject-to-a-fine-but-shall-be--liable--for--the~~
25 ~~damage--caused--to--the--owner-or-operator-of-the-underground~~
26 ~~utility-facilities-or-CATS-facilities.~~

27 (Source: P.A. 86-674.)

28 (220 ILCS 50/13) (from Ch. 111 2/3, par. 1613)

29 Sec. 13. Mandamus or injunction. Where public safety or
30 the preservation of uninterrupted, necessary utility service
31 or community antenna television system service is endangered
32 by any person engaging in excavation or demolition in a
33 negligent or unsafe manner which has resulted in or is likely

1 to result in damage to underground utility facilities or CATS
2 facilities, or is proposing to use procedures for excavation
3 or demolition which are likely to result in damage to
4 underground utility facilities or CATS facilities, or where
5 the owner or operator of underground utility facilities or
6 CATS facilities endangers an excavator by willfully failing
7 to respond to a locate request, the owner or operator of such
8 facilities or the excavator or the State's Attorney or the
9 Illinois Commerce Commission at the request of the owner or
10 operator of such facilities or the excavator may commence an
11 action, ~~or the State's Attorney, at the request of the owner~~
12 ~~or operator of such facilities or the Illinois Commerce~~
13 ~~Commission, shall commence an action,~~ in the circuit court
14 for the county in which the excavation or demolition is
15 occurring or is to occur, or in which the person complained
16 of has his principal place of business or resides, for the
17 purpose of having such negligent or unsafe excavation or
18 demolition stopped and prevented or to compel the marking of
19 underground utilities facilities or CATS facilities, either
20 by mandamus or injunction.

21 (Source: P.A. 86-674.)

22 (220 ILCS 50/14) (from Ch. 111 2/3, par. 1614)
23 Sec. 14. Home rule. The regulation of underground
24 utility facilities and CATS facilities damage prevention, as
25 provided for in this Act, is an exclusive power and function
26 of the State. A home rule unit may not regulate underground
27 utility facilities and CATS facilities damage prevention, as
28 provided for in this Act. All units of local government,
29 including home rule units, must comply with the provisions of
30 this Act. This Section is a denial and limitation of home
31 rule powers and functions under subsection (h) of Section 6
32 of Article VII of the Illinois Constitution.

33 (Source: P.A. 86-674.)

1 (220 ILCS 50/11.5 rep.)

2 Section 10. The Illinois Underground Utility facilities
3 Damage Prevention Act is amended by repealing Section 11.5.

4 Section 99. Effective date. This Act takes effect
5 January 1, 2002.